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Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Visit to Armenia undertaken from 3 to 6 September 2013: observations and recommendations addressed to the national preventive mechanism

Report of the Subcommittee*, **

Addendum

Replies of the national preventive mechanism

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* In accordance with article 16 (1) of the Optional Protocol, the report of the Subcommittee was transmitted confidentially to the national preventive mechanism on 10 May 2014. On 8 January 2017, the national preventive mechanism requested the Subcommittee to publish the report, in accordance with article 16 (2) of the Optional Protocol.

** The present document is being issued without formal editing.

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I. On the main legal, institutional and structural issues

1. According to the National Human Rights Action Plan, amendments to the Republic of Armenia (RA) Human Rights Defender's Law, based on the United Nations Optional Protocol the Convention on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), are foreseen in the third quarter of 2014. Thus, the concerns raised in the United Nations Subcommittee on Prevention of Torture (SPT) Report to the Republic of Armenia will be resolved through the draft. Furthermore, in the 2014-2015 List of Measures of the Implementation of the European Neighbourhood Policy's RA-European Union Action Plan as a priority is outlined the strengthening of the activities of the Human Rights Defender as the National Preventive Mechanism. The outcome expected is the adoption of the RA Law "On the Amendments and Changes to the RA Human Rights Defender Law" to completely ensure the activities of the RA Human Rights Defender as National Preventive Mechanism of Armenia.

2. Currently, by the decree of the RA Human Rights Defender the newly established Department of National Preventive Mechanism in cooperation with the Legal Analysis Department of the RA Human Rights Defender Institution (HRDI) is reviewing the best international practice of NPM law in order to draft the RA Law "On the Amendments and Changes to the RA Human Rights Defender Law." The final draft will be sent to the SPT for opinion.

II. Visibility and identification

3. In order to raise the visibility of the NPM among the civil society, the following steps were undertaken:

- Within the structure of the RA Human Rights Defender Institution, the National Preventive Mechanism Department was established with its own logo;
- Already 3 public statements were made with the aforementioned name, clearly defining the name, mandate and position of the NPM
- In order to raise the visibility and to provide the clear identification for the NPM, on 8 May 2014 the session of the Expert Council adjunct to the National Preventive Mechanism Department was conducted, where among other issues, the issue of engagement of Expert Council members in other observer groups was also discussed. As an outcome of the session, 3 experts out of 4 who were engaged in other observer groups as well agreed to leave their positions in those groups upon the termination of their terms there (by June, 2014) thereby contributing to the activities of raising the visibility of NPM and of providing its proper identification. The other member preferred to stay in the observer group justifying that his non-governmental organization (NGO) has already a member in the Expert Council (2 experts were involved in the Council).
- In order to increase the visibility, negotiations are being conducted with partner organizations on conducting NPM awareness raising programs through information various means

4. Already badges were obtained for the members of the NPM and Expert Council so as to identify the members during the visits and monitoring. Currently measures are being undertaken for obtaining the relevant uniform (vests, headwear, etc.) that would provide more visual identification.

III. Resources

5. The RA Government in the fourth quarter of 2013 discussed and by the suggestion of the RA National Assembly accepted the budget enquiry of the RA Human Rights Defender in regards to the commitments under Article 6.1 of the RA Human Rights Defender Law, which refers to the National Preventive Mechanism obligations defined by the OPCAT. Therefore, the Human Rights Defender, within his institution established a separate department headed under the title National Preventive Mechanism Department, which is comprised of 4 lawyers (Head of the Department, Deputy Head of the Department, 1 Senior Expert and 1 Expert) and of 1 doctor (Senior Expert).

6. It is worth mentioning, that the financial means allocated by the RA Government do not cover the expenses of the Expert Council adjunct to the NPM. Therefore, negotiations are being conducted with partner organizations on possible mutual programs, at the same time activities are being undertaken to increase the number of experts in the Expert Council.

IV. Working methods

7. In order to constantly exchange information with relevant authorities, a number of meetings-discussions were already conducted. The following were implemented:

- In regards to the places of detention of Police, where the NPM recorded shortcomings, their possible solution methods were presented by the NPM, furthermore, commitments were expressed for future cooperation.
- In regards to the issues in the special schools under the jurisdiction of the RA Ministry of Education and Science. Additionally, representatives of local and international organizations, other interested parties were also invited.
- In regards to the issues in Psychiatric Institutions (PI):

8. The NPM members participated as trainers in the trainings for the medical personnel of the PIs of Armenia conducted within the framework of mutually implemented project "Ill Treatment and strengthening of fight against impunity" by the European Union and the Council of Europe. Participation in these events is noteworthy in the sense that the representatives of the medical personnel of the PIs perceived the NPM as a supportive body.

V. Draft and existing legislation

9. Both the current and drafting legislations are within the focus of the NPM. Thus, the internal regulations of the garrison disciplinary isolators of the RA Ministry of Defence were already examined; numerous contradictions were found in regards to legal acts and European Committee for the Prevention of Torture standards. The RA Minister of Defence was informed about the aforementioned. The activities of drafting of changes and amendments in the relevant regulations were conducted by the assignment of the Minister of Defence. The Minister also proposed to involve the NPM in the above-stated process in order to carry out the work more effectively.

10. The results of the activities will be publicized by the NPM, as the NPM has already adopted the practice of publicizing the carried out activities. A better example of the similar case is considered to be the results of the detention facility under the jurisdiction of the RA National Security Service. So, as an outcome of the visit conducted the director of the RA National Security Service was immediately informed of the shortcomings recorded, who

within 20 days period corrected them. The results of the activities conducted were publicized by the NPM.

11. Another example of publishing the activities of the NPM may be considered that the information publicized became of interest to the RA Prime Minister. Thus, the NPM visited child care and protection of boarding facility where it witnessed ill-treatment towards children, as well as food storage condition violations and expired products, cases of abuse of power by the administration. The RA Minister of Labour and Social Affairs was immediately informed of the recorded violations, asking him to take immediate measures to solve the existing issues, to prevent similar incidents in the future and to bring the persons responsible to liability. Unfortunately the RA Minster of Labour and Social Affairs did not undertake measures as a result of which the NPM published the violations recorded thus publicly asking for immediate steps. As a result, the RA Prime Minister with the representatives of the NPM conducted an unexpected visit to the facility, discussing the revelations of the NPM on the spot as a result of which the director was fired, and the Deputy Minister and the Head of the Family, Women and Children Department of the RA Deputy Minister of Labour and Social Affairs were sentenced to disciplinary liability receiving strict notice.

VI. Methodology of visits

12. The Annual Activity Plan and Annual Strategy were developed, which included the challenges, visit schedules and other relevant information of NPM for 2014. Although understanding the importance of the recommendation of the SPT in regards to the 5 year strategy, the NPM developed only the strategy for 2014, which is due to the fact that the Strategy is experimental.

13. In order to increase the efficiency of the activities the guide for visits was developed in collaboration with the Expert Council, which includes ethical regulations of the Expert Council, methods and tools of the visit. The NPM and Expert Council conduct internal trainings based on the developed guide.

14. Moreover, during the trainings, special attention is paid to the fact that the NPM representatives clearly mention the secrecy and volunteer nature of the interviews, be guided by the "do not harm" principle, create trusted environment, fully present the mandate of NPM in practice not altering from its mandate.

VII. Reprisals

15. Special attention is paid to the issue of mandatory warning of the administration of closed or semi-closed institutions about unacceptability of possible reprisals.

VIII. Debriefing the authorities of closed and semi-closed institutions

16. Special attention is paid to raising the efficiency of the discussions conducted with the representatives of the staff of closed institutions as well as to the issues of the mandatory warning on reprisals related to those people with who the representatives of NPM had interviews.

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IX. Reporting

17. After each visit a separate report is prepared, which in details includes all the issues revealed during the visit, changes made after the previous visit, obstacles for NPM developed by the competent authorities and etc. Then, based on the report, an official letter is drawn up with relevant issues and proposals to correct the shortcomings.

18. Hereinafter, the NPM in its annual report will present an assessment on the cooperation with government representatives.